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**FILED IN CAMERA AND UNDER
SEAL PURSUANT TO
31 U.S.C. § 3730**

Plaintiff,

ABBOTT LABORATORIES, INC.,

Defendant.

As anticipated in prior filings, the United States is now prepared to notice its intervention as to Abbott Laboratories, Inc. (Abbott) in *United States ex rel. Ven-A-Care v. Abbott, et al.*, Civil Action No. 95-1354-CIV-GOLD. For the sake of administrative ease, the United States respectfully requests that this Court enter an order severing all claims against Abbott in that action.¹ The United States has conferred with the relator, Ven-A-Care of the Florida Keys, Inc., and the relator has no objection to this motion.

¹ This case was consolidated with *United States ex rel. Ven-A-Care v. Abbott, et al.*, Civil Action No. 02-23609-CIV-GOLD by Order of this Court dated February 21, 2003. The United States is not moving to sever the claims against Abbott from that case. The United States continues to investigate that matter – which has an intervention deadline of April 28, 2006 – and is not making a decision on whether to intervene or not in the claims against Abbott in that case at this time.

This *qui tam* action has been filed against several defendants, including Abbott. The United States is now prepared to intervene against Abbott and is contemporaneously with this motion filing the United States' Notice of Partial Intervention and Complaint against Abbott. The United States will only be intervening as to claims relating to 46 Abbott NDCs² and billings for certain Abbott products under Medicare Healthcare Common Procedural Coding System (HCPCS), specifically claims for Abbott products billed under 11 Medicare HCPCS codes. The Relator will be proceeding on the non-intervened Abbott NDCs and J-Codes identified or implicated in their Fourth Amended Complaint.

To facilitate the management of this matter subsequent to the intervention against Abbott, the Government seeks to sever the all claims against Abbott – both the intervened and non-intervened claims – in *United States ex rel. Ven-A-Care v. Abbott, et al.*, Civil Action No. 95-1354-CIV-GOLD. By severing the portion of the case against Abbott, it will be substantially easier to avoid complications potentially resulting from a portion of the case – *i.e.*, those claims relating to other defendants – remaining sealed while the claims against Abbott are unsealed and litigated.

The United States' Complaint will identify the claims and HCPCS codes upon which it is intervening. The Relator will file, after severance, a redacted copy of the complaint that only references its claims against Abbott – including both intervened and non-intervened Abbott claims – so that the original allegations against Abbott will be part of the unsealed file.

² The FDA provides for the assignment to each listed drug product of a unique 11-digit, 3-segment number, known as the National Drug Code (NDC).

The proposed order accompanying the United States' Notice of Partial Intervention has been prepared on the basis that the relief requested herein has been granted. Thus, the proposed order only references Abbott. As a result, no special handling will be necessary to preserve the seal as to the remaining defendants because no mention of that part of the case is necessary if the Abbott portion is severed.

THEREFORE, the United States respectfully requests that its Motion to Sever as to Defendant Abbott Laboratories, Inc. be granted, and that the Court enter the attached proposed Order severing the proceedings against Abbott.

DATED this 17th day of March, 2006.

Respectfully submitted,


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CIVIL ACTION NO: 95-1354-CIV-GOLD


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CERTIFICATE OF SERVICE

IT IS HEREBY certified that a true and correct copy of the foregoing was mailed this
17th day of March, 2006 to:

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